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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,244	08/29/2001	David Henderson	14142	9133

7590

10/10/2003

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EXAMINER

CULBRETH, ERIC D

ART UNIT PAPER NUMBER

3616

DATE MAILED: 10/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/942,244

Applicant(s)

HENDERSON ET AL.

Examiner

Eric D Culbreth

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 46 is/are allowed.
- 6) ☒ Claim(s) 1-11, 13, 14, 21-25, 30-33, 36-39, 43, 47-49 and 51 is/are rejected.
- 7) ☒ Claim(s) 15-20, 26-29, 34, 35, 40-42, 44, 45 and 50 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings were received on 7/21/03. These drawings are acceptable.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 21, 30, 36 and 43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preamble of claim 21 recites the invention as a mounting bracket, but the body of the claim recites features of the fastener. Hence, it is not clear if the invention is a bracket, or the combination of the bracket and fastener. The same applies to claims 30, 36, and 43. In the remarks filed 7/21/03 the applicant cites case law that the preamble “merely states a purpose or intended use and the remainder of the claim completely defines the invention”. However, in defining the invention in the claims, the applicant may not use terms that are repugnant to the actual meaning (note MPEP 2173.05(a)). When the preamble of the noted claims recites the invention as a bracket, yet features of the fastener are recited, and the description or specification disclosed the bracket as in fact receiving the fastener, this is inconsistent and hence indefinite. (Noting applicant’s observation that the examiner took the position that the preamble’s intended use is not limiting, these are two separate issues – claim limitations and claim terminology).

Allowable Subject Matter

4. Claim 46 is allowed.
5. Claims 15-20, 26-29, 34-35, 40-42, 44-45 and 50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 21, 30, 36 and 43 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
8. Claims 48-49 and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by Ando et al (of record).

Ando et al discloses (claim 48) a mounting bracket or supporting device 10 with attachment means or resin cover 52 with slot 50 that could be used for engaging an inflatable curtain if desired as functionally recited. The attachment means 52 defines opening or slot 50, and a free rotation means (spacer 38, bobbin 32) is provided for receiving fastener 34 and is in rotatable communication with the attachment means 52 adjacent opening 50 (column 2, lines 39-

51). The free rotation means has an inner and outer surface. Regarding claims 49 and 51, the closed slot 50 is also a locking means that would secure an inflatable curtain to the attachment means 52 (i.e., the slot's closed periphery prevents webbing, curtains, etc. inside from escaping), and the slot 50 of the attachment means 52 would engage a respective opposing surface of the inflatable curtain as functionally recited.

Claim Rejections - 35 USC § 103

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10. Claims 1-2, 5-8, 13-14, 22-23, 31-33 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakajima et al (U.S. Patent 6,530,594, newly cited) in view of Ando et al.

Nakajima et al discloses an airbag device comprising a curtain 16 with an upper edge and opposing inner and outer surfaces. First and second plates 50E, 50D engage each opposing surface of the curtain, and at least one of the plates has an opening for bolt 44. Ando et al teaches a bobbin 32 and spacer 38 in an opening and in rotatable communication with a cover or plate 52. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Nakajima et al to include a spacer/bobbin or bushing with flanges as taught by Ando et al in order to the plates 50D, 50E of Nakajima et al to rotate relative to the bolt 44 as per Ando et al, column 2, lines 39-51 (claim 1). Noting claims 5, 22 and 47, in the combination Ando et al's flanges on bobbin 32 would retain the bushing on the plates as functionally recited.

The examiner regrets the earlier indication of allowability of claim 47.

Regarding claims 2 and 23, Nakajima et al, the primary reference, teaches in Figure 3 a gap between the bolt 44 and the plates 50D, 50E, and in the combination this would teach the bushing being smaller than the opening in the plate.

Regarding claims 6-8 and 31-33, in the combination Ando et al's bushing comprises a first piece 32 engaged rotatably to a second piece 38, with the first piece attached to the attachment plate 50D by its outer flanges in the combination as broadly recited. Similarly, in the combination Nakajima et al's bolt head and washer on bolt 44 would attach Ando et al's spacer 38 to the bolt or fastener.

Both of Nakajima et al's plates 50D, 50E have an aligned opening for bolt 44 and in the combination the bushing would be in at least one attachment plate (claims 13-14).

11. Claims 3-4, 9-11, 24-25 and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakajima et al in view of Ando et al as applied to claims 1, 22 and 23 above, and further in view of Mautsch et al (of record).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Nakajima et al and Ando et al above to include a bushing with a deformable leg or protrusion at the inner surface that is deformable to facilitate positioning of the bushing in the opening as taught by Mautsch et al in order to use a bushing that is readily attachable to the plates (claims 3-4 and 24-25).

In regards to claims 9-11 and 37-39, in the combination, Mautsch et al's bushing 14, 14 snaps together with the farthest piece 14 in Figure 1 being a female member in the combination

Art Unit: 3616

rotatably engaging the attachment plate at the opening as broadly recited in the combination and the male member 14 nearest in Figure 1 has legs or protrusions that would engage a fastener.

Conclusion

12. In view of the citation of new art, this action is nonfinal.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tanase et al shows plates 46a, 46b.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric D Culbreth whose telephone number is 703/308-0360. The examiner can normally be reached on Monday-Thursday, 9:30-7:00 alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Eric D Culbreth
Primary Examiner
Art Unit 3616

Eric Culbreth
10/16/03

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